

Mining Permits Joint Priority

October 1, 2016 – September 30, 2020

(FFY 2017 – 2020)

Objective: To address regulatory and communication issues and facilitate timely completion of NPDES permit actions for metallic mining projects in Minnesota that will address outstanding environmental issues, eliminate permit backlog, and issue permit decisions for existing and new mining operations.

Statement of Problem/Issue: Water quality permits for the metallic mining sector are critical to the protection of surface waters. These permits are often associated with economic development, are under increased public scrutiny, and involve complex permitting and water quality situations EPA and MPCA had previously established a joint priority on metallic mining which was focused on reducing the permit backlog in the mining sector. The current regulatory environment makes it difficult to propose new or renewed permit actions that will survive administrative procedures and become successful final actions. NPDES permit actions for metallic mining operations are affected by water quality standards and the need to address impacts to downstream waters regulated by other state/tribal governments. This joint priority will include actions to update water quality standards, and define working procedures needed to complete successful permit actions. MPCA and EPA are committed to constructive problem-solving with an emphasis on transparent, open verbal communication.

Scope: Minnesota's Class 3 and Class 4 water quality standard revisions (including wild rice), numeric interpretation of aquatic life standard, and NPDES permits for new, expanding and existing metallic mining operations in Minnesota.

Strategy: The metallic mining joint priority will include a focused effort on development and review of Minnesota revised Class 3 and Class 4 water standards and an implementation strategy for a conductivity water quality standard (including a discussion on use of a numeric interpretation of the narrative aquatic life standard). It will also will include identification and prioritization of metallic mining permit projects, and improvements to the permitting process to assure timely NPDES permit decisions consistent with CWA requirements and elimination of the permit backlog following final EPA decision on Minnesota Class 3 and Class 4 water quality standards. EPA and MPCA agree to approach interactions constructively and well prepared, minimize surprises and focus on joint problem solving.

Actions to be accomplished or Progress Update:

1. Update Minnesota's Class 3 and Class 4 water quality standards.
 - a. MPCA provides information to USEPA throughout the rulemaking process;
 - b. MPCA completes state rulemaking process by January 1, 2018; and
 - c. USEPA completes timely review and provides a decision by DATE, 2018.

Responsible Staff: Catherine Neuschler, MPCA and Linda Holst, USEPA
2. Develop implementation strategy for conductivity water quality standard (including a discussion on use of a numeric interpretation of the narrative aquatic life standard)
 - a. Joint work group developed by DATE
 - b. Proposed strategy presented to senior leaders by DATE

Responsible Staff: Catherine Neuschler, MPCA and Linda Holst, USEPA

3. Conduct tribal community consultations.
 - a. USEPA develops a process and timeline for tribal community consults (including trust lands), and keeps MPCA informed of progress in meeting timelines on specific key consultations. This could include, and not be limited to, consultations related to EPA's review and approval of Class 3 and 4 standards, impaired waters listings and in their oversight role for permitting.

Responsible Staff: NAME, MPCA and NAME, USEPA

4. Provide resources to complete permitting and certification analyses to assure timely decisions for copper/nickel mining proposals (e.g. Polymet).

Responsible Staff: Ann Foss, Jeff Stollenwerk, MPCA and Kevin Pierard, Peter Swenson USEPA

- a. Use the MOA as a guiding document

5. Update permit issuance/reissuance priorities and timelines by October 1 of each year.

Responsible Staff: Jeff Stollenwerk, MPCA and Kevin Pierard, USEPA

6. In the event of adoption of new water quality standards MPCA will make necessary adjustments to permitting procedures and permit review checklists used in the State's permit issuance process.

Joint Priority Responsibilities:

1. MPCA, USEPA R5 and USEPA HQ staff participate in quarterly calls for updates, information exchanges and problem solving on all joint priority actions.

Staff Responsible to Schedule: Jeff Stollenwerk, MPCA and Kevin Pierard, USEPA

Staff Responsible to Participate: All involved in Actions above.

2. As process impediments are identified EPA and MPCA agree to evaluate and resolve the impediment within a fixed period of time, which will be identified and agreed upon. If an impediment is not resolved in the established period it will be elevated to the Assistant Commissioner (MPCA) and Water Division Director (EPA) level for resolution.

3. Annually review metallic mining permit issuance/reissuance priorities and timelines

Responsible Staff: Jeff Stollenwerk, MPCA and Kevin Pierard, USEPA

Joint Priority Guiding Principles:

1. Approach each interaction focused on problem-solving
2. Constructive Communications - Advance discussions prior to formal letters, emails, or actions
3. Come prepared for interactions

Additional information:

Contacts for both agencies (names, phone#s and e-mails)

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